



Repealing Preemption: Lessons Learned

October 29, 2019

2019: UNPRECEDENTED NUMBER OF BILLS FILED AND PASSED

Colorado:

- HB 1210, the “Local Wage Option” bill, allows localities to decide their own minimum wage.
- HB 19-1033 allows localities to tax and regulate cigarettes and other tobacco products.
- SB 19-181 gives local governments control over the approval of drilling sites; forces the Colorado Oil and Gas Conservation Commission to prioritize public health and the environment

Arkansas:

- HB 2033 repealed parts of the state law preempting municipal broadband

LESSONS:

- Legal review must be the first step.
- Connect repeal of preemption with an affirmation of city power.
- Be prepared to fight on two fronts: local control and the issue that is presently preempted
- Provide data, maps and other tools that make the case for deciding the issue at the local level.
- Educate, Educate, Educate.
- Build broader cross issue coalitions, including partners from across the political spectrum.

2020 REPEAL BILLS:

- **Broadband:** FL, NC, TN, PA
- **Minimum Wage:** FL, KY, LA, NY, PA
- **Plastics:** CO, FL, MN
- **Rent Regulation:** CO, FL, IL, PA

Local Solutions Support Center

A national hub that coordinates and creates efforts to counter the abuse of preemption and strengthen local democracy.

Goals are to raise awareness of state preemption and its consequences, reduce the use of this threat to democracy, and strengthen the power of cities to advance policies that promote equity, inclusion, public health, and civic participation.

www.supportdemocracy.org



Preemption Repeal in Colorado: Lessons Learned



United ^{FOR A}
New
Economy

Lessons Learned- 2019 Legislative Session

- Be prepared with messaging specific to both:
 - Preemption
 - Issue Specific
- Be ready for county vs city dynamics
- Recruit local elected officials early
- Consider Associations for local electeds



Supports for Repeal Campaigns

- Legal Research
- Messaging Support
- Impact Research for specific policy
 - Health Impacts
 - Rent Impact
 - Rent vs Wages

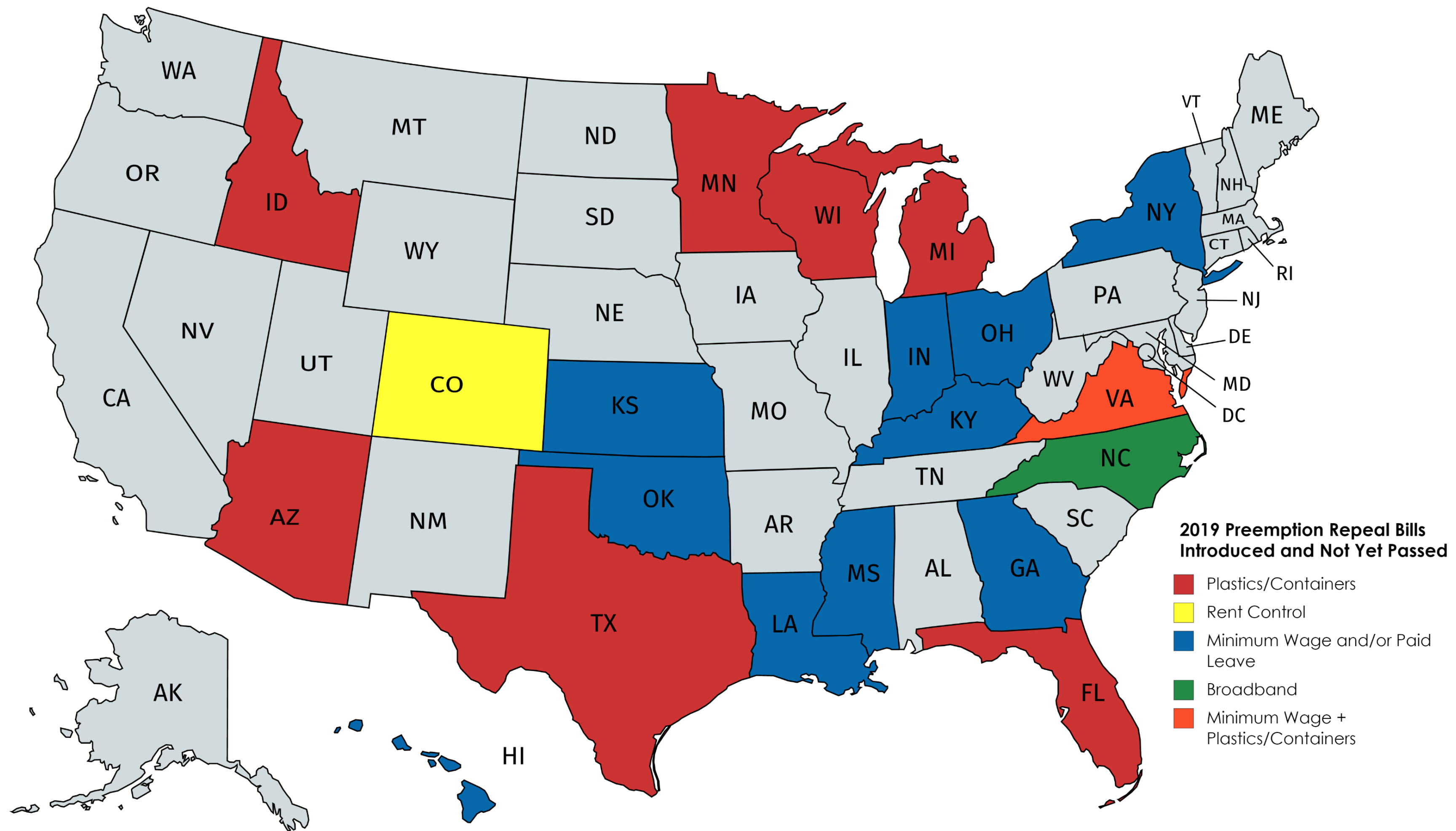


Capacity Needed for Preemption Repeals

- Broad Coalition
 - *Directly Impacted People*
 - *Local Elected Officials- especially those that have tried local solutions that are preempted*
 - *Policy, researchers and other advocates*
- Communications Support
- Lobbying (professional & grassroots)



2019
Preemption
Repeal Bills
Introduced
(Not Yet
Passed)



Is Repealing Statutory Language Enough?

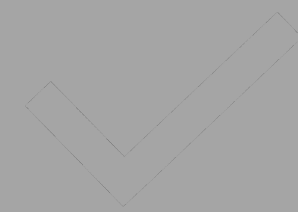
Some questions to consider:

- Which local governments will have default power?
- Will local governments be subject to implied preemption challenges?
- What will happen if both a county and a city within a county adopt a local law?
- What tools will be available for local enforcement?

A Few Recommendations



Specify Which Local Governments Will Have Authority To Adopt Local Laws



Clarify If Voters Will Be Able To Adopt Local Laws Through Local Initiative Powers



Specify, If Necessary, How Overlapping County and City Laws Will Interact



Consider Specifically Listing Key Enforcement Powers

How Did Colorado's HB 19-1210 Tackle These Issues?

01

Defined local government as meaning: a city; town; territorial charter city; city and county; or home rule county.

02

Expressly allowed local voters to enact local minimum wage laws through initiative powers, when available.

03

Expressly allows for intergovernmental agreements. Also respected default relationship between counties and their incorporated versus unincorporated areas.

04

Incorporated best practices for minimum wage enforcement by expressly authorizing key enforcement tools, such as: liquidated damages; costs and attorneys fees; private right of action.



Resources for Drafting Future Repeal Bills

- Forthcoming White Paper on Preemption Repeal Bills/Campaigns
- Bill Drafting Support from Local Solutions Support Center
- Messaging Support
- Campaign & Coalition Support
- Research & Fact Sheets